

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

COMPLAINT

CAROLINE HOROCHAK (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NAVIENT SOLUTIONS, INC. (“DEFENDANT”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the Commonwealth of Massachusetts, thus personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

6. Plaintiff is a natural person residing in Homestead, Pennsylvania.
0.

7. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

8. Defendant is a corporation with its principal place of business located at 123 Justison Street, Wilmington, Delaware 19801.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number.

11. Plaintiff has only used this phone as a cellular telephone.

12. By way of background, beginning in or around 2009 or 2010, Defendant began to contact Plaintiff on her cellular phone on a repeated basis regarding a student loan debt.

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and/or pre-recorded voice.

1 14. Plaintiff knew that Defendant was using an automatic telephone
2 dialing system and/or pre-recorded voice as Plaintiff received automated calls that
3 begin with a pre-recorded message.
4

5 15. Defendant's telephone calls were not made for "emergency purposes;"
6 rather, Defendant was attempting to collect a student loan debt.
7

8 16. Desiring to stop the repeated calls, Plaintiff spoke with Defendant in
9 or around late 2015 or early 2016 and told Defendant she was disabled, was unable
10 to pay the balance, and demanded that the calls stop.
11

12 17. She repeated this request for calls to cease on numerous occasions in
13 late 2015 and early 2016.
14

15 18. Once Defendant was aware that its calls were unwanted, its continued
16 calls could have served no purpose other than harassment.
17

18 19. However, Defendant proceeded to ignore Plaintiff's revocation and
20 continued to call her cellular telephone number.
21

22 20. Upon information and belief, Defendant conducts business in a
23 manner which violates the Telephone Consumer Protection Act.
24

COUNT I
**DEFENDANT VIOLATED THE TELEPHONE CONSUMER
PROTECTION ACT**

21. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

22. Defendant initiated automated calls to Plaintiff using an automatic telephone dialing system.

23. Defendant's calls to Plaintiff were not made for emergency purposes, as they were attempting to collect a balance remaining on Plaintiff's account.

24. Defendant's calls to Plaintiff, after Plaintiff told Defendant's representatives that she was unable to pay the debt and told Defendant to stop calling her, were not made with Plaintiff's prior express consent.

25. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

26. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

27. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

1 WHEREFORE, Plaintiff, CAROLINE HOROCHAK, respectfully prays for
2 a judgment as follows:

- 3 a. All actual damages suffered pursuant to 47 U.S.C.
4
5 §227(b)(3)(A);
6 b. Statutory damages of \$500.00 per violative telephone call
7 pursuant to 47 U.S.C. § 227(b)(3)(B);
8 c. Treble damages of \$1,500.00 per violative telephone call
9 pursuant to 47 U.S.C. §227(b)(3);
10 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
11 e. Any other relief deemed appropriate by this Honorable Court.
12
13

14
15 **DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, CAROLINE HOROCHAK,
17 demands a jury trial in this case.
18

19 Respectfully submitted,

20
21 DATED: August 31, 2018

22
23
24
25
26
27
28 /s/ Amy L. Bennecoff Ginsburg
Amy L. Bennecoff Ginsburg, Esq.
Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, PA 19002
Phone: (215) 540-8888
Facsimile: (877) 788-2864
Email: aginsburg@creditlaw.com